

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID P. FOLEY,

Plaintiff,

v.

SGT. ZABBLE, et al.,

Defendants.

ORDER

Case No. 17-cv-384-wmc

On May 17, 2017, I entered an order assessing plaintiff David Foley an initial partial payment of \$2.15 of the \$350 fee for filing this case. Now plaintiff has submitted a letter saying the institution refuses to disburse the \$2.15 initial partial payment from plaintiff's release account funds, and therefore, plaintiff requests an order from the court directing prison officials to disburse the \$2.15 initial partial payment from plaintiff's release account funds. Dkt. #6. I will grant plaintiff's request.

Pursuant to 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if sufficient funds do not exist in plaintiff's regular account to pay his initial partial payment, he should be allowed to use his release account to pay some or all of the assessed amount of \$2.15.

ORDER

IT IS ORDERED that:

1. Prison officials are directed to disburse \$2.15 from plaintiff David Foley's release account for payment of the initial partial payment in this case. Plaintiff's initial partial payment is due on or before June 22, 2017.

2. If by June 22, 2017, plaintiff fails to pay the \$2.15 initial partial filing fee or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

Entered this 1st day of June, 2017.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge